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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/597,095

09/29/2006

Juan Carlos Lacal Sanjuan

020884-000008

5976

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EXAMINER

DAVIS, ZINNA NORTINGTON

ART UNIT

PAPER NUMBER

1625

MAIL DATE

DELIVERY MODE

09/01/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/597,095	<b>Applicant(s)</b> LACAL SANJUAN ET AL.	
	<b>Examiner</b> Zinna Northington Davis	<b>Art Unit</b> 1625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 08 June 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-8, 13 and 15-17 is/are pending in the application.
- 4a) Of the above claim(s) 16 and 17 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8, 13, and 15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>11/16/06</u> .  | 6) <input type="checkbox"/> Other: _____                          |

### DETAILED ACTION

1. Claims 1-8, 13, and 15-17 are pending.
2. Claims 9-12 and 14 have been cancelled.
3. In the response filed June 8, 2009, Applicants have elected Group I, claims 1-8, 13, and 15, with traverse. Applicants also identify Compound 7 (1,1'-biphenyl-4,4'-diylmethene)bis[4-(4-chloro-N-methylanilino)quinolinium]dibromide) as the preferred species.
4. Based upon the response filed June 8, 2009, the election of species is withdrawn.
5. In the response filed June 8, 2009, applicants request rejoinder of Groups II-VIII (method claims 16 and 17) as indicated by the Examiner in paragraph 10 of the Restriction Requirement (paragraph bridging pages 4-5).
6. Once an allowable product of Group I is indicated, Applicants should further elect a single method to be examined with the invention of Group I.
7. Claims 16 and 17 are withdrawn from consideration. These claims have not been canceled.
8. Applicants are reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a diligently filed petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(h).

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9. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

10. Claims 1-12 and 18-29 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

A. At claims 1 and 13, it is suggested that the term "general" should be deleted.

B. At claims 2-7 and 13, it is suggested that the phrase "characterized in that" should be amended to read as "wherein".

C. At claim 8, is a pharmaceutical composition intended?

D. At claim 13, the term "derivative" is indefinite. It is suggested that the term "derivative" should be deleted.

E. At claim 15, the term "Compounds" should be amended to "The compound".

11. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

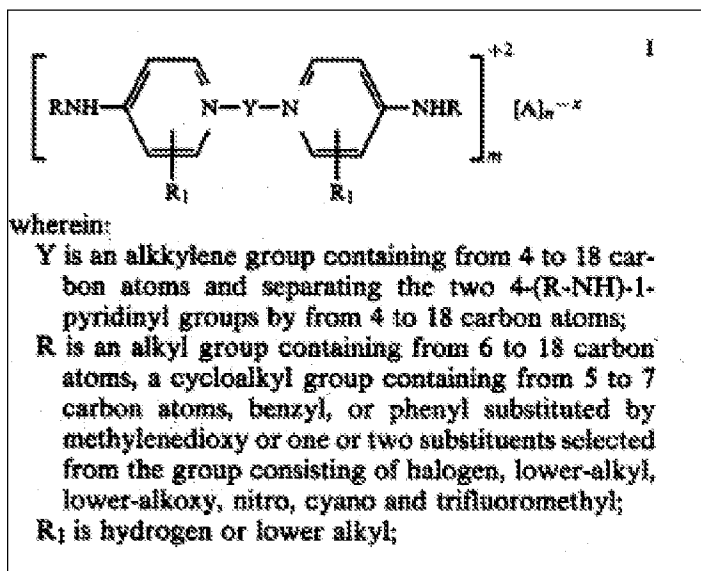
A person shall be entitled to a patent unless –

(b) The invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

12. Claims 1, 3, 4, 8, and 13 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Bailey et al. (Reference A cited by the Examiner).

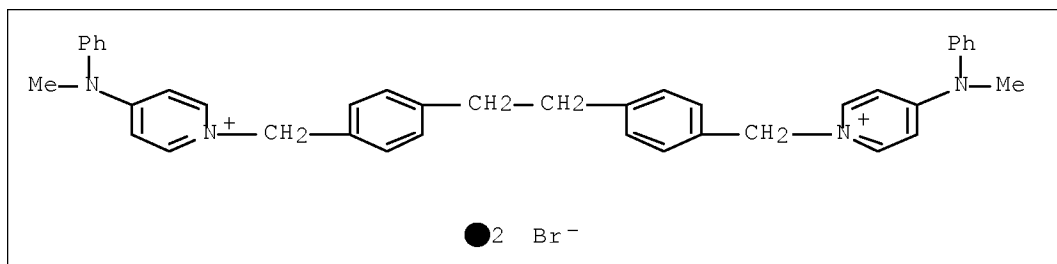
The instantly claimed compounds are disclosed. At pages 1 and 2, see the compound of Formula I. The generic formula is depicted as follows:

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13. Claims 1-4 and 8 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Campos et al (Reference C1 cited by Applicants).

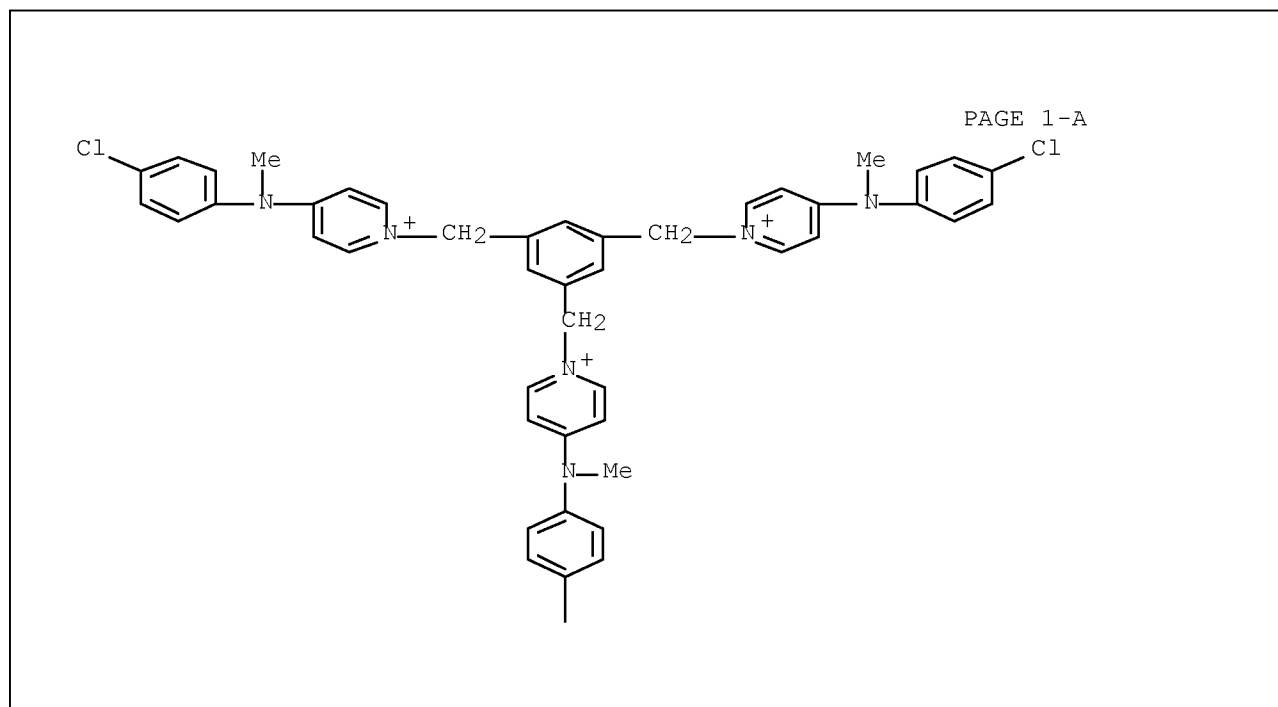
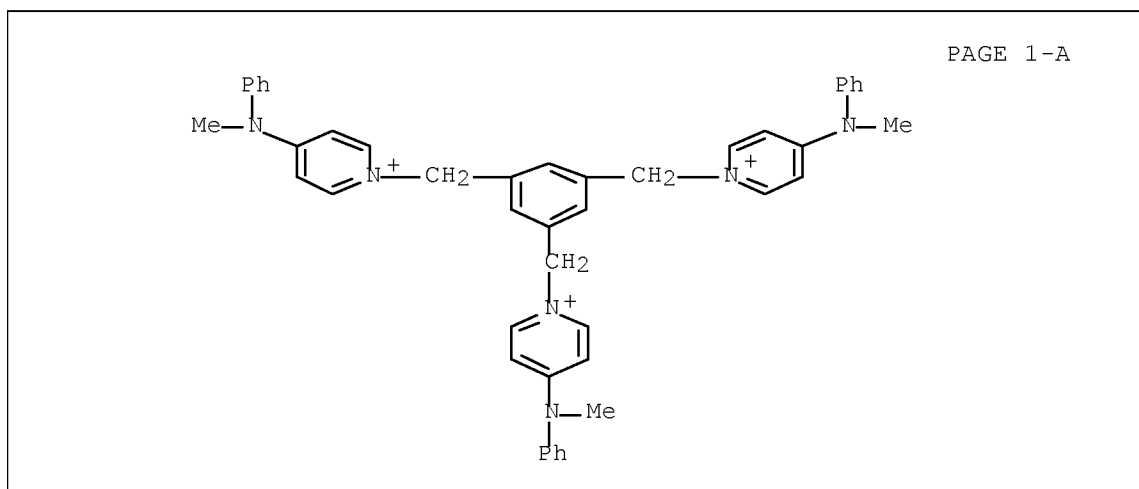
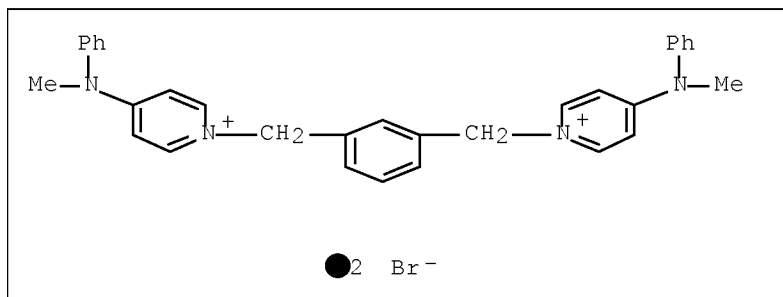
The instantly claimed compound is disclosed. At page 224, Table 2, see Compound 3k. The compound is depicted as follows:



14. Claims 1-4, 8, and 13 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Conejo-Garcia et al (Reference C2 cited by Applicants).

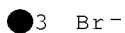
The instantly claimed compounds are disclosed. At page 110, Table I, see compound 5. At page 110, Table I, see compounds 9, 10, and 11. The compounds are depicted as follows:

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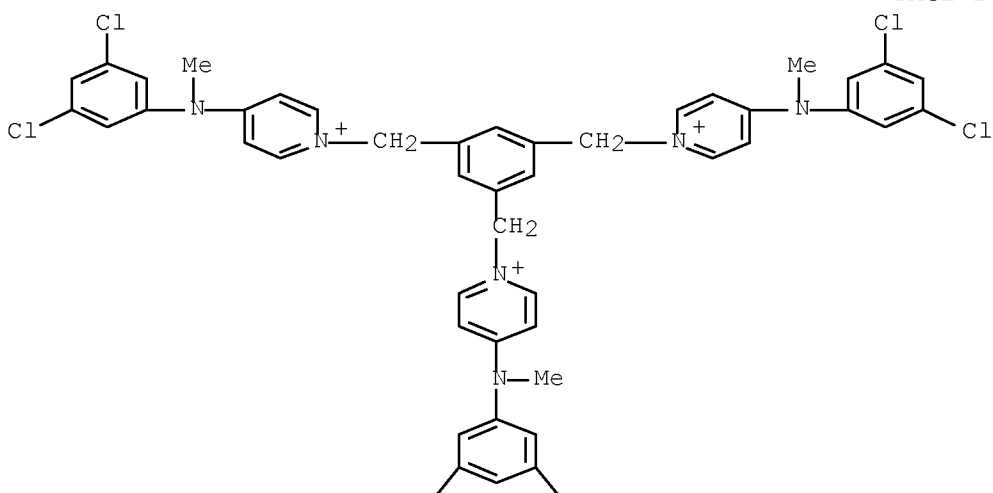
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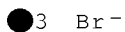


and

PAGE 1-A



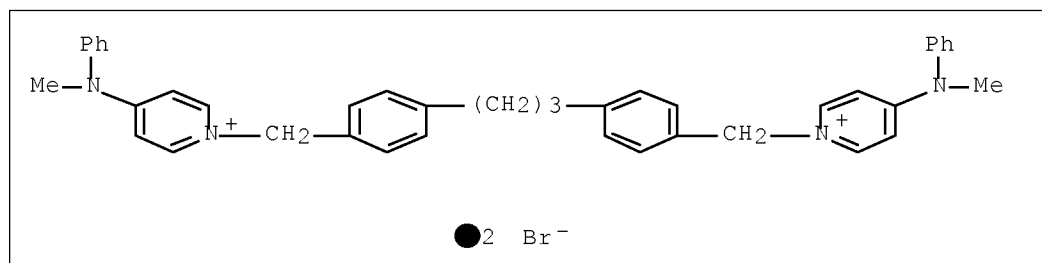
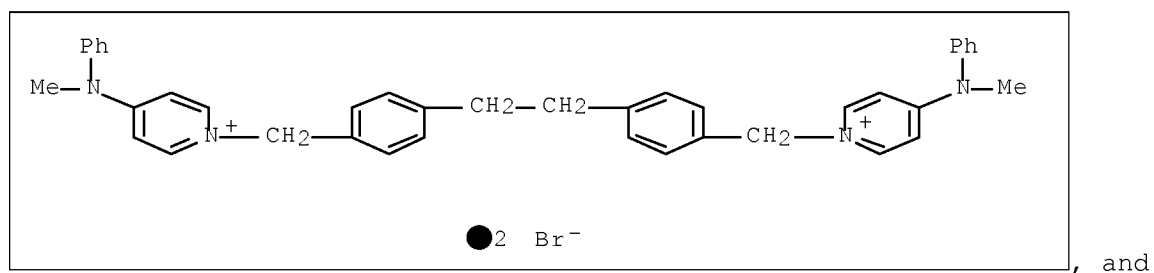
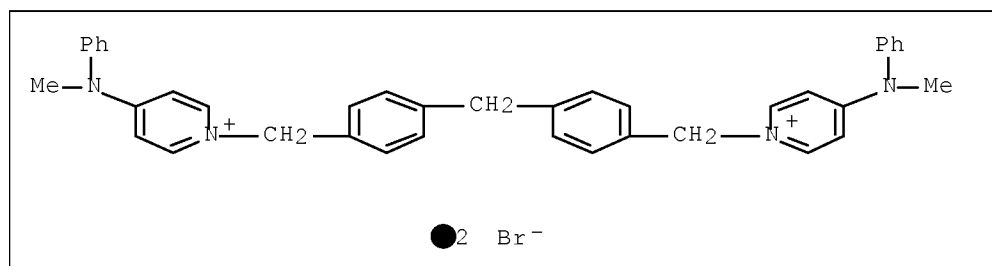
PAGE 2-A



15. Claims 1-4, 8, and 13 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Campos et al (Reference C3 cited by Applicants).

The instantly claimed compounds are disclosed. At page 2220, Table 5, see compounds 57, 58, and 59. The compounds are depicted as follows:

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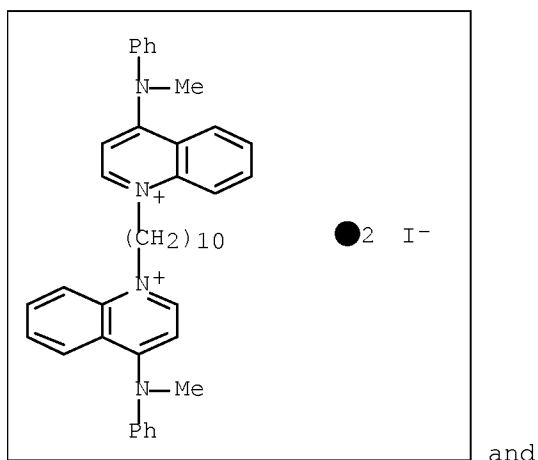


16. Claims 1-4, 8, and 13 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Galanakis et al (Reference C4 cited by Applicants).

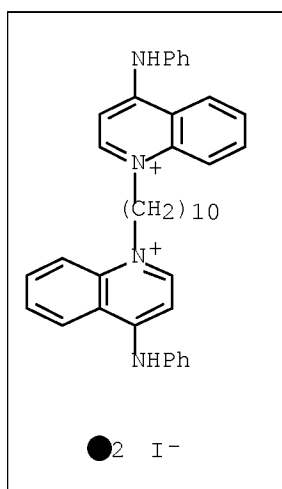
The instantly claimed compounds disclosed. At page 3537, Table 1, see compounds 8 and 9. The compounds are depicted as follows:



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and



17. The Information Disclosure Statement filed November 16, 2006 has been considered.

18. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Zinna Northington Davis whose telephone number is 571-272-0682.

19. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300 for regular communications.

20. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for

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published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Zinna Northington Davis/  
**Zinna Northington Davis**  
**Primary Examiner**  
**Art Unit 1625**

Znd  
08.31. 2009